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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,441	06/01/2001	Dennis G. Olson	SUREB-56121	2095

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EXAMINER

GURZO, PAUL M

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,441

Applicant(s)

OLSON, DENNIS G.

Examiner

Paul Gurzo

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4. 6) ☐ Other: .

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: G. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "12" and "16" have both been used to designate the article. In addition, reference characters "20", "22", and "28" have been used to designate the fixture. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2,3,5, and 10-44 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. As the claimed invention is best understood in light of the specification, the fixture acts to provide a substantial uniformity in the radiation dose at the different positions in the article within the particular limits (page 12, lines 6-9). However, the description and accompanying figures do not depict how this is possible. Notably, the fixture is merely an aluminum, steel or plastic material, but there is no teaching of how these materials will, in any way, affect the uniformity. Namely, there is no magnetic or electric field that will

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change the beam dosage to provide uniformity, nor is there rotation of either the article or the electron beam that will achieve the desired uniformity. The fixture merely acts to block the radiation at different areas, but the fixture, as depicted in Fig. 3-5, does not in any way block the beam. On the contrary, there is no distortion of the beam of any kind because the beam has a clear line of sight path to irradiate the article. Therefore, the fixture will not achieve any type of adequate uniform absorption.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2,3,5 and 10-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As stated above, the specification does not adequately enable the claimed invention because the fixture will not provide any type of increased absorption uniformity. There is no application of a magnetic or electric field that will affect the irradiation of the beam, and there is no rotation of the article or the beam source that could lead to desired uniformity. Because of this, it is not clear how the fixture will lead to any type of uniform irradiation distribution.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 2,3,5 and 10-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The specification states that the fixture acts to provide a substantial uniformity in the radiation dose at the different positions in the article within the particular limits (page 12, lines 6-9). However, the claims only claim absorbing radiation depending upon the irregularities in the characteristics of the article at the different positions. Therefore, as the invention is claimed, it is only concerned with absorption due to irregularities, which is not consistent with the specification that is concerned with uniformity.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4, and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Welt et al. (5,400,382).

Regarding claims 1,4, and 6-9, 382 teaches a method of irradiating an article from a radiation source (27) including the steps of providing the radiation from the source (27) in a particular direction, absorbing the radiation energy in accordance with the irregularities in the article to maintain desired radiation dosage, and moving the article past the radiation from the source in a direction transverse to the particular direction (col. 3, lines 10-15, col. 4, lines 1-17, col. 5, lines 48-52, and Fig. 1). This will achieve the desired uniformity of the radiation dosage

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(col. 7, lines 60-65). Further, 382 teaches controlling the speed (col. 3, lines 49-54), and it is inherent that substantially constant speed can be achieved.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Perrins et al. (6,215,847)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Gurzo whose telephone number is (703) 306-0532. The examiner can normally be reached on M-Thurs. 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Lee can be reached on (703) 308-4116. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

PMG
June 23, 2003


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
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